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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,396	04/28/2000	HIDEMI HENMI	2000-0545 A	5651

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WENDEROTH LIND & PONACK
2033 K STREET N W
SUITE 800
WASHINGTON, DC 20006

EXAMINER

DEMICO, MATTHEW R

ART UNIT	PAPER NUMBER
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2697

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,396

Applicant(s)

HENMI, HIDEKI

Examiner

Matthew R Demicco

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The disclosure is objected to because of the following informalities: on Page 11, Line 16, the word "date" should be correct to read --data--. Additionally, the specification contains no description of Figure 10. Appropriate correction is required. ✓

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,452,644 to Shimakawa et al.

Regarding Claim 1, Shimakawa discloses a storage-type data receiver (Col. 3, Lines 56-58) for receiving data being updated at irregular intervals and next-update information indicating when the data will be updated (Col. 3, Lines 23-50), both distributed by a data source that stores the data (Col. 6, Lines 15-17). The receiver comprises a reception means for receiving the data and next-update information (Col. 3, Lines 56-65), storage means for storing the data (Col. 4, Lines 25-31), data update detection means for comparing current time and next-update time (Col. 4, Lines 14-17 and Col. 4, Lines 49-55) indicated by the next-update information to generate a data

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update time indication signal indicating whether it is the time to update the data or not (Col. 4, Lines 58-63 and Col. 7, Lines 4-28) and data storage control means for controlling storage of the data in the storage means based on the data update indication signal (Col. 7, Lines 53-60).

Regarding Claim 2, Shimakawa discloses a system as stated above in Claim 1 wherein the data storage control means controls the storage means to store the received data when the current time coincides with the next-update information (Col. 4, Lines 58-63).

Regarding Claim 3, Shimakawa discloses a system as stated above in Claim 1 wherein the reception means further comprises a tuner (Col. 3, Lines 56-60) for arbitrarily selecting a signal of a broadcast channel among a plurality of channels (Col. 3, Lines 37-42) and control means for controlling channel selection with the tuner based on the data update time indication signal (Col. 4, Lines 58-63).

Regarding Claim 4, Shimakawa discloses a system as stated above in Claim 3 wherein the tuner control means controls the tuner in such a manner as to tune itself with the selected channel when the current time coincides with the next-update information (Col. 4, Lines 57-63).

Regarding Claim 5, Shimakawa discloses a system as stated above in Claim 1 further comprising power supply control means for controlling power supply to the reception means based on the data update time indication signal (Col. 7, Lines 22-29).

Regarding Claim 6, Shimakawa discloses a system as stated above in Claim 5 wherein the power supply control means makes power supplied to the reception means

only when the current time coincides with the next-update information (Col. 4, Lines 58-63).

Regarding Claim 7, Shimakawa discloses a system as stated above in Claim 5 wherein the power supply control means makes power supplied to the data update detection means regardless of the data update time indication signal (Col. 4, Lines 32-44).

Regarding Claim 8, as best understood by the Examiner, Shimakawa discloses a system as stated above in Claim 3 wherein based on the identification information generated by the identification information generation means (Col. 3, Lines 37-42), the tuner control means sets the tuner's channel to that which the stored data is being distributed (Col. 6, Lines 56-60).

Regarding Claim 9, as best understood by the Examiner, Shimakawa discloses a system as stated above in Claim 8 further comprising specified data extraction means for extracting the data to be stored from the received data based on the identification information (Col. 7, Lines 2-7).

Regarding Claim 10, Shimakawa discloses a storage-type data reception method for receiving data being updated at irregular intervals and next-update information indicating when the data will be next updated, both distributed by a data source to store the data therein (See Claim 1), comprising a reception step of receiving the data and next-update information (Col. 4, Lines 32-44), a storage step of storing the data, an update time determination step for determining whether it is time to update the data after comparing current time and next-update time or not indicated by the information, and a

data storage control step of effectuating the storage based on the determination made in the update time determination step as stated above in Claim 1.

Regarding Claim 11, Shimakawa discloses a method as stated above in Claim 10 wherein the data control step, the storage step is effectuated only when the current time coincides with the next-update information as stated above in Claim 2.

Regarding Claim 12, Shimakawa discloses a method as stated above in Claim 10 further comprising a tuning step of arbitrarily selecting a signal of a broadcast channel among plural signals and a tuning step of effectuating said tuning only when the current time coincides with the next-update information as stated above in Claim 3.

Regarding Claim 13, Shimakawa discloses a method as stated above in Claim 10 further comprising a computer program capable of activating a computer in such a manner that device structured by the computer program and the computer can carry out the storage-type data reception method. In such a system, it is inherent that the set-top box is effectively a computer since it contains a CPU, memory, and input/output. It is also inherent in such a computer that there must be software running on said CPU from the memory facilitating all aspects of the control and operation of the device, including those as stated above in Claim 10.

Regarding Claim 14, Shimakawa discloses a method as stated above in Claim 10 further comprising a computer program capable of causing a computer to carry out the storage-type data reception method. As stated above in Claim 13, a computer software program is inherently disclosed in a computerized set-top box receiver.

Regarding Claim 15, Shimakawa discloses a method as stated above in Claim 10 further comprising a computer program product stored on a medium readable by a computer which comprises computer code means capable of carrying out the storage-type data reception method. The system of Shimakawa discloses memory (Col. 4, Line 24), which is a computer-readable medium for storing computer programs. As stated above in Claims 13 and 14, it is inherent that such in such a computer-based set-top box, a computer program product is essential to the operation of the system.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. U.S. Patent No. 6,336,218 to Kim discloses a set-top box with program guide information detection and reservation that operates the power supply of the box and television.
 - b. U.S. Patent No. 6,408,395 to Sugahara et al. discloses a power saving method by remote control using a control signal over a network.
 - c. U.S. Patent No. 5,657,072 to Aristides et al. discloses an electronic program guide with off-peak data transmittal scheduling.
 - d. U.S. Patent No. 6,292,943 to Shin et al. discloses a power control method for a set-top box with time reservation.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155.

The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

MRD
mrd
May 2, 2003

KAWilliams
Kimberly A. Williams
Primary Examiner
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